

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: August 24, 2006

Time: 9:00 a.m., C.S.T.

Location: Embassy Room
Millennium Maxwell House Hotel
2025 Metro Center Blvd.
Nashville, TN 37228

Members Present: Leland Davis, D.V.M., President
C. Maben Thompson, D.V.M., Secretary
Thomas Edmonds, D.V.M.
Mary Welch, D.V.M., Vice-President
Marie Gordon, Consumer Member
James C. Lyons, D.V.M.
Robbie Bell, HRB Director, Ex-officio Member

Members Absent: Vacant, L.V.M.T.
Ron Wilson, D.V.M., Ex-officio Member

Staff Present: Lisa Lampley, Board Director
Rita Buckner-Shelton, Board Administrator
Nicole Armstrong, Advisory Attorney
Robert Taylor, D.V.M., Board Consultant/Inspector

Upon roll call and determination of a quorum being present, the Board meeting was called to order by Dr. Davis at 9:05 a.m.

Welcome to New Board Member

Dr. Davis welcomed Dr. James “Chuck” Lyons, DVM, to the Board. Dr. Lyons’ term expires on August 01, 2010. Dr. Lyons replaces Dr. Jerry Wilhite, DVM, whose term expired on August 01, 2005.

Approval of Minutes

After reviewing the minutes from the April 19, 2006 board meeting, Dr. Edmonds motioned to approve the minutes as presented. Dr. Welch seconded the motion. The motion carried.

Conflict of Interest Policy

Ms. Nicole Armstrong, Advisory Attorney, reviewed the conflict of interest policy and stated that a signed copy of the policy was included in each member's board book.

Progress Report – Philip Ensminger, DVM

As per the terms of the Order ratified by the Board on April 20, 2005, Dr. Ensminger appeared before the Board to present proof of continuing education and other requirements for maintaining licensure.

Progress Report – Edmond Watts, DVM

As per the conditions of licensure ratified by the Board on April 20, 2005, Dr. Watts appeared before the Board to present proof of continuing education and other requirements for maintaining licensure.

Contested Case – Kevin Cox, DVM - Voir Dire

The contested case hearing was continued. Dr. Kevin Cox, DVM, was not present and was represented by Ms. Carlyle Urello, Attorney. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Ann Johnson. A request for a voir dire of the board members was submitted by the Respondent's attorney. Approval of the request was granted by Judge Johnson. Ms. Urello requested this preliminary examination of the board members to determine the extent of any prior knowledge members might have of the pending contested case hearing for Dr. Cox. Judge Johnson explained the proceedings for the voir dire and instructed the board members to disclose any communication received in any form regarding the pending case and/or to disclose any information which might cause bias or prejudice or give the perception of bias or prejudice. All board members were questioned regarding any preformed opinions on how the pending issue/case should be resolved. Ms. Urello requested that the board members be questioned as a whole followed by questioning of individual members with the exclusions of Ms. Gordon and Dr. Lyons from the individual questioning. Judge Johnson informed the board members that their participation in the questioning was not required and would be an individual decision by each board member. All board members chose to participate. Ms. Brandi Bozarth, Assistant General Counsel, did not have any questions for the board members. Upon completion of interviews, Ms. Urello expressed her appreciation to the board members for their willingness to answer questions. Judge Johnson then explained procedures regarding disqualification and recusal of a board member from participation in a contested case hearing. Board members were asked to consider scheduling an additional meeting date in November, 2006 for the contested case hearing for Dr. Cox and to submit to Ms. Lampley any available dates for said meeting.

Consent Order – Simeona Jartova Collins, Unlicensed

Ms. Simeona Jartova Collins, Unlicensed, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Ms. Collins graduated from a Bulgarian veterinary school in the year 2002 and has worked for Dr. Thomas Crawford, Jr., DVM, for the past three (3) years. Ms. Collins does not hold a Tennessee license to practice veterinary medicine. Ms. Collins was ordered to cease and desist from the practice of veterinary medicine and was assessed total civil penalties in the amount of \$3,600.00 and costs of the proceedings. Dr. Welch made a motion, seconded by Dr. Edmonds, to accept the Consent Order. The motion carried.

Consent Order – Joanne M. Hibbs, D.V.M.

Dr. Joanne Hibbs, DVM, was not present and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Ms. Armstrong presented a Consent Order to the Board for ratification. Dr. Hibbs practiced in a facility without a premise permit from July 2000 to February 2006. Dr. Hibbs was assessed total civil penalties in the amount of \$3,300.00. Dr. Edmonds made a motion, seconded by Dr. Welch, to accept the Consent Order. The motion carried.

Consent Order – Thomas S. Crawford, D.V.M.

Dr. Thomas Crawford, DVM, was not present and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board's screening panel, Ms. Armstrong presented a Consent Order to the Board for ratification. Dr. Crawford employed and permitted a graduate of a Bulgarian veterinary school to practice veterinary medicine without a license. Dr. Crawford's license was placed on probation for a period of three (3) years. Dr. Crawford must not employ any unlicensed persons to perform duties which require licensure as a Veterinarian or Licensed Veterinary Medical Technician and must provide training to staff once a year for each year of the probationary period. Dr. Crawford must personally appear at the December 2006 board meeting and provide staff training attendance sheets, an employee manual, and a notarized affidavit that attests that the staff training has been conducted and that no unlicensed employees are performing duties which require licensure by the Board. Dr. Crawford must complete five (5) hours of continuing education in the subject area of ethics and jurisprudence by December 2007 and personally appear at the December 2007 board meeting and provide documentation of completion of the above continuing education hours and provide the staff training attendance sheet for the second staff training session. A final personal appearance must be made at the August 2009 board meeting to provide the staff training attendance sheet for the final staff training session and to request an Order of Compliance. Dr. Welch made a motion, seconded by Dr. Edmonds, to accept the Consent Order. The motion carried.

Upcoming Continuing Education Audit for Calendar Year 2005

The Board was informed that a random audit of continuing education hours for calendar year 2005 is scheduled to be conducted at the beginning of next year. The audit will include veterinarians and licensed veterinary medical technicians as well as all board members with the exception of Ms. Gordon, Consumer Member. The Board was asked to consider and discuss what action, if any, should be taken for licensees found to be in non-compliance with the audit and a reminder given of the Board's existing policy statement pertaining to continuing education requirements. Ms. Lampley was asked to gather information for discussion at the next board meeting regarding the action taken by other state boards for failing to obtain continuing education hours.

Discussion - American Association of Veterinary State Boards (AAVSB) Conference

A discussion was held regarding the agenda of the upcoming AAVSB Conference scheduled for September 15 – 17, 2006 in Kansas City, MO. Dr. Welch and Ms. Lampley are scheduled to attend the meeting.

Discussion – Licensure Exemption for Consulting Veterinarian

Ms. Lampley informed the Board that several calls had been received in the previous weeks regarding licensed veterinarians in other states coming into Tennessee, at the request of a licensed Tennessee veterinarian, for a “consultation”. The Board discussed the exemption from licensure authorized by T.C.A. 63-12-133 (a) (2) of: “..Any lawfully qualified veterinarian residing in some other state or country when meeting in consultation with a licensed veterinarian of this state.” The board discussed the definition of the term “consultation” and agreed that a policy statement or rule change was needed to address this issue. Ms. Lampley was asked to gather information from other states regarding any existing language pertaining to this issue and to place this item on the agenda for discussion at the next board meeting.

Committee to Review Continuing Education Courses/Presentations

Dr. Thompson agreed to review requests for approval of continuing education hours and make recommendations to the board regarding approval/disapproval. Dr. Thompson replaces Dr. Davis on the review committee.

Controlled Substance Database Advisory Committee

Dr. Lyons was appointed as the board member representative to serve on the Controlled Substance Database Advisory Committee. Dr. Lyons replaces Dr. Davis on the advisory committee.

2007 Proposed Meeting Dates

The board reviewed and discussed the following 2007 proposed meeting dates:

April 12 & 13

August 8 & 9

December 13 & 14

There were conflicts with the proposed August meeting dates and alternate proposed meeting dates will be submitted to the board for review and discussion.

Rules Status Report

Mr. Jerry Kosten, Regulations Manager, reported that a rulemaking hearing was held on June 23, 2006 regarding the examination fee for veterinary medical technicians. After review and discussion, a motion was made by Dr. Thompson to ratify the proposed rule changes as amended. The motion was seconded by Dr. Welch. The motion carried.

Mr. Kosten reviewed proposed rule changes pertaining to continuing education requirements/procedures, and rules pertaining to the refund of monetary fines and civil penalties as per Public Chapter 716. As per Executive Order #38, the Board reviewed and discussed any economic impact or any contemplated impact on small businesses the proposed rule changes would create. Dr. Edmonds then made a motion, seconded by Dr. Thompson, to authorize a rulemaking hearing. The motion carried. A hearing is scheduled to take place on November 2, 2006. Notices of rulemaking hearings are posted on the Internet and may be accessed via the Department of Health's home page.

The Board reviewed the rule amendments effective October 10, 2006 pertaining to the use of the titles "Veterinarian," "Doctor of Veterinary Medicine," "D.V.M." or "V.M.D." and the approval of acepromazine and xylazine as the only drugs approved by the Board for the pre-euthanasia of animals by a certified animal euthanasia technician in a certified animal control agency.

Office of General Counsel (OGC) Report

Ms. Nicole Armstrong, Advisory Attorney, reviewed the report with the Board. There is currently one set of rules under review at the Office of the Attorney General and a roll call vote scheduled for this meeting regarding examination fees for veterinary medical technicians. The Office of General Counsel currently has twenty-five (25) open cases pertaining to the Tennessee Board of Veterinary Medical Examiners.

Investigations and Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator, reviewed the reports with the Board. There are currently thirty-three (33) open complaints in the Office of Investigations. An analysis of newly filed complaints categorized by allegation and month received and by geographical area and month received was included. The disciplinary report indicated that twenty-six (26) individuals are currently being monitored for compliance with Board orders. In addition, Ms. Phelps reported that the Board has a 90% compliance rate for collection of fines/penalties.

Inspection Report

Dr. Robert Taylor, Board Consultant/Inspector, reviewed the inspection report. A total of ninety-five (95) inspections were conducted during the period of April, 2006 – July, 2006. Dr. Taylor reported that Dr. James Everett, DVM, was awarded the inspector contracts for Middle and East Tennessee and Dr. Allison Climer, DVM, was awarded the inspector contract for West Tennessee. Dr. Taylor briefly discussed the issue of the same deficiency being noted two or more times sequentially at the facility renewal inspection conducted every two years and the need for a rating of “Non-Compliance” under these circumstances. The Board agreed that if the same deficiency was noted two or more times at the same facility during the renewal inspections, proof of correction of the deficiency should be submitted to the Board’s administrative staff.

Director’s Report

Ms. Lampley welcomed Dr. Lyons to the Board. Dr. Lyons replaces Dr. Jerry Wilhite, DVM, whose term expired August 01, 2005. A resignation letter as received from Ms. Mary Ann Grell, LVMT, stating “...her decision to change career paths has rendered me unable to fulfill the duties required of me as member while I am in school full-time. I wish all of you the best of luck.” Appreciation was expressed to Dr. Wilhite and Ms. Grell for their hard work and service as board members. The board’s administrative office moved to its new location at 227 French Landing, Suite 300; Heritage Place MetroCenter on June 14, 2006. The Veterinary Technician National Examination (VTNE) was administered on June 16, 2006 to twenty-two (22) candidates. A total of six (6) candidates failed to pass the examination. The next North American Veterinary Licensing Examination (NAVLE) testing window will be November 13 – December 9, 2006. Approximately seventy (70) licensure applications have been received from candidates wishing to take the exam through the Tennessee licensing board. The new contracts for veterinary facility and animal control agency inspections have been awarded. Dr. Allison Climer, DVM, was awarded the contract for the West Tennessee region and Dr. James Everett, DVM, was awarded the contracts for the Middle and East regions. The new contracts have an effective period of July 1, 2006 through June 30, 2009.

The following status report was provided:

Total Active Licensees as of July 31, 2006:

Veterinarians:	1,683
Veterinary Medical Technicians:	320
Veterinary Facilities:	591
Certified Animal Euthanasia Technicians:	166
Certified Animal Control Agencies:	44

Financial Report

A copy of the last financial report was available for review. An updated financial report will be mailed to board members as soon as it becomes available.

Legislative Report

Ms. Armstrong reviewed the status of the following legislation:

Public Chapter No. 532 - Specifies that artificial insemination of livestock is not a veterinary practice for which licensure is required.

Public Chapter No. 716 – Instructs Board to refund all monetary fines and civil penalties imposed and collected in fiscal years 2004-2005 and 2005-2006 for the artificial insemination of livestock without a license and to promulgate rules to that effect.

Public Chapter No. 791 – Extends Board’s termination date to June 30, 2010.

Continuing Education Course Approval

The following requests for approval of continuing education hours were received:

A request from the **Airport Emergency Clinic** for approval of six (6) continuing education hours each for meetings to be held in Bristol, TN on March 11, 2007 and December 2, 2007.

A request from **The Columbus Serum Company South and Nutramax Laboratories** for approval of two (2) continuing education hours for a seminar entitled “**Diagnostic Approach to Liver Disease and Treatment Options**” held on May 24, 2006 in Knoxville, TN.

A request from **Kendrick Technical Services, L.L.C.** for approval of six (6) continuing education hours for a course entitled “**Regulatory Compliance for the Veterinary Practice**” to be held on various dates beginning September, 2006.

A request from **Merial** for approval of two (2) continuing education hours for a meeting entitled “**Merial at the Movies: Paw and Order**” held April 28, 2006 in Nashville, TN and a request for approval of one and one-half (1.5) hours for a meeting entitled “**Vaccine Choices**” held July 23, 2006 in Nashville, TN.

A request from **Merial** for approval of continuing education hours for the following meetings/presentations:

1.5 hrs. – “**To Adjuvant or Not to Adjuvant**” – February 22, 2006 – Chattanooga, TN

1.0 hr. – “**Previcox: Real Results**” – June 20, 2006 – Cleveland, TN

1.0 hr. – “**The Previcox Experience Trial**” - August 22, 2006 - Chattanooga, TN

A request from **Pfizer** for approval of one (1) continuing education hour for the following events: “**Pain Management Wet Lab**” conducted March 17, 2006 in Antioch, TN; “**Dental Web Labs**” conducted April 3, 4, and 5, 2006 in Antioch, Nashville, and Smyrna, TN; and “**Leptospirosis Presentation**” conducted April 4, 2006 in Murfreesboro, TN.

A request from **Pfizer** for approval of two (2) continuing education hours for a meeting entitled “**Leptospirosis Awareness**” held June 20, 2006 in Germantown, TN.

A request from **The Association of Pet Dog Trainers** for approval of thirty-five and one-half (35.5) continuing education hours for attendance at the **13th Annual Conference and Trade Show** to be held on September 13 – 17, 2006 in Kansas City, MO.

A request from **Monica Brown** for approval of the **Florida Animal Control Association Euthanasia Course** relative to her application for licensure as a Certified Animal Euthanasia Technician.

A motion to deny the request received from The Association of Pet Dog Trainers was made by Dr. Thompson and seconded by Dr. Lyons. The motion carried.

A motion to approve five (5) hours of continuing education for the request received from Kendrick Technical Services, L.L.C. was made by Dr. Welch and seconded by Dr. Lyons. The motion carried with Dr. Thompson abstaining.

A motion to approve all other courses was made by Dr. Welch and seconded by Dr. Lyons. The motion carried.

File Review

The Board reviewed the licensure application file and a request for reinstatement of license to practice veterinary medicine submitted by **Don Bryan, DVM**. Per the terms of the Agreed Order of Voluntary Surrender, effective September 13, 2004, in which the license was voluntarily surrendered and it was agreed that Dr. Bryan would never reapply for licensure as a veterinarian in Tennessee, the Board determined that the application could not be considered. Dr. Welch made a motion, seconded by Dr. Thompson, to deny any and all licensure applications submitted by Dr. Bryan. The motion carried.

The Board reviewed a reinstatement application submitted by **Billie Ann Boyd, DVM**. Dr. Boyd answered “yes” to application questions pertaining to disciplinary action in another state and any denial of a state or federal controlled substance certificate. Dr. Boyd was in attendance at the meeting and the Board was informed of her availability to answer questions. After review and discussion, Dr. Welch made a motion to deny the application based on the disciplinary actions taken by the Georgia Board of Veterinary Medicine which included the indefinite suspension and subsequent revocation of Dr. Boyd’s license to practice veterinary medicine in the state of Georgia. Dr. Thompson seconded the motion. The motion carried.

File Review/Ratification

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies.

Correspondence

The Board reviewed all correspondence and requested that appropriate notification be given of any action taken or any comments made.

Adjournment

There being no further business to discuss, Dr. Thompson made a motion, seconded by Dr. Lyons, to adjourn. The motion carried and the meeting was adjourned at 3:26 p.m.

C. Maben Thompson, DVM, Secretary

Date